

University of Dundee

'I want the male and the female wings. I don't want a special trans wing for people.'

Maycock, Matthew

Published in:
Prison Service Journal

Publication date:
2020

Licence:
UK Government Non-Commercial Licence

Document Version
Publisher's PDF, also known as Version of record

[Link to publication in Discovery Research Portal](#)

Citation for published version (APA):

Maycock, M. (2020). 'I want the male and the female wings. I don't want a special trans wing for people.': Transgender people in custody in Scotland's views about transgender specific facilities within prisons. *Prison Service Journal*, (251), 31-37.

General rights

Copyright and moral rights for the publications made accessible in Discovery Research Portal are retained by the authors and/or other copyright owners and it is a condition of accessing publications that users recognise and abide by the legal requirements associated with these rights.

- Users may download and print one copy of any publication from Discovery Research Portal for the purpose of private study or research.
- You may not further distribute the material or use it for any profit-making activity or commercial gain.
- You may freely distribute the URL identifying the publication in the public portal.

Take down policy

If you believe that this document breaches copyright please contact us providing details, and we will remove access to the work immediately and investigate your claim.

PRISON SERVICE JOURNAL

November 2020 No 251



Contents

Alice levins, *Prisons Research Centre, Institute of Criminology, University of Cambridge*

Dr Lynn Saunders OBE is Governor of HMP Whatton¹

Honorary Professor Dr. Geraldine Akerman is a Therapy Manager at HMP Grendon, the Chair of the Division of Forensic Psychology Executive Committee and Visiting Lecturer at Cardiff Metropolitan University and the University of Birmingham. **Caitlin Brown** is a Trainee Forensic Psychologist on the Doctorate programme with the University of Nottingham

Dr Matthew Maycock is a lecturer at School of Education and Social Work, University of Dundee

2 Editorial Comment

3 Power, shame and social relations in prisons for men convicted of sex offences

Alice levins,

11 The transition from prison to the community of people convicted of sexual offences: Policy and practice recommendations.

Dr Lynn Saunders OBE

19 'No one told me about Circles': Perspectives of Circles of Support and Accountability and Perceived Support to Prevent Sexual Reoffending

Honorary Professor Dr. Geraldine Akerman and Caitlin Brown

31 'I want the male and the female wings. I don't want a special trans wing for people.' Transgender people in custody in Scotland's views about transgender specific facilities within prisons

Dr Matthew Maycock

Editorial Board

Dr Ruth Armstrong
University of Cambridge
Dr Rachel Bell
HMP Send
Alli Black
HMP Kirkham
Maggie Bolger
Prison Service College, Newbold Revel
Professor Alyson Brown
Edge Hill University
Gareth Evans
Independent
Dr Ben Crewe
University of Cambridge
Dr Sacha Darke
University of Westminster
Dr Michael Fiddler
University of Greenwich
Dr Kate Gooch
University of Bath
Dr Darren Woodward
Coventry University
Professor Anne-Marie McAlinden
Queen's University, Belfast
William Payne
Independent

Dr Jamie Bennett (Editor)
HMPPS
Paul Crossey (Deputy Editor)
HMP Huntercombe
Professor Karen Harrison (Reviews Editor)
University of Lincoln
Steve Hall
Independent
Professor Yvonne Jewkes
University of Bath
Dr Helen Johnston
University of Hull
Dr Bill Davies
Leeds Beckett University
Martin Kettle
HM Inspectorate of Prisons
Monica Lloyd
University of Birmingham
Dr Amy Ludlow
University of Cambridge
Dr David Maguire
Prison Reform Trust
George Pugh
HMP Belmarsh

Dr David Scott
Open University
Christopher Stacey
Unlock
Ray Taylor
HMPPS
Mike Wheatley
HMPPS
Dr David Honeywell
University of Durham
Richard Garside
Centre for Crime and Justice Studies
Dr Maria Morgan
HMPPS
Dr Lynn Saunders
HMP Whatton
Dr Rosie Travers
HMPPS
Dr Matt Maycock
University of Dundee
Flora Fitzalan Howard
HMPPS
Dr Munazzah Choudhary
HMPPS
Jackson Joseph
HMP Leyhill

MONTH 2019

38 A qualitative study exploring vicarious trauma in prison officers

Dr Alicia King and Dr Caroline Oliver

Dr Alicia King is a Registered Clinical Psychologist in Midlands Partnership NHS Foundation Trust, and

Dr Caroline Oliver is a Registered Forensic Psychologist at University of Birmingham

46 Young men in prison with Neurodevelopmental Disorders: Missed, misdiagnosed and misinterpreted

Professor Amanda Kirby, Betony Clasby, Professor W. Huw Williams and Dr Mary Ann Megan Cleaton

Professor Amanda Kirby leads Do-IT Solutions Ltd; **Betony Clasby** is based at Department of Sociological Studies, University of Sheffield and Murdoch Children's Research Institute, Melbourne, Australia; **Professor W. Huw Williams** is based at Department of Psychology, University of Exeter, and **Dr Mary Ann Megan Cleaton** works at Do-IT Solutions Ltd

59 Ex-prisoners experiences of healthcare in prison and the community in Scotland

Dr. James Fraser

Dr. James Fraser is a Registered Nurse and completed a doctorate at Abertay University Dundee

**65 Book Review
Life Imprisonment from Young Adulthood. Adaptation, Identity and Time**

Professor Karen Harrison

Professor Karen Harrison is a Professor of Law and Penal Justice at the University of Lincoln

Cover Design

The Editorial Board wishes to make clear that the views expressed by contributors are their own and do not necessarily reflect the official views or policies of the Prison Service.

Printed at HMP Leyhill on 115 gsm and 200 gsm Galerie Art Satin

Set in 10 on 13 pt Frutiger Light

Circulation approx 6,500

ISSN 0300-3558

© Crown Copyright 2019

‘I want the male and the female wings. I don’t want a special trans wing for people.’ Transgender people in custody in Scotland’s views about transgender specific facilities within prisons

Dr Matthew Maycock is a lecturer at School of Education and Social Work, University of Dundee

Introduction

For a relatively small proportion of the wider prison population, transgender people in custody have been the focus of significant recent policy and media debate in Scotland and Internationally. This debate has taken a particular form following the opening of a wing of HMP Downview specifically to house transgender people in custody in England in March 2019. This unit is just one of the options for housing transgender people in English prisons — it is also possible that they are located in men’s or women’s prisons, based on individual risk assessment. Despite this focus, there have been no studies that have considered the views of transgender people in custody regarding HMP Downview and what this specific wing represents for the management of transgender people in custody. This constitutes a significant gap in what we know about transgender people’s views on how they want to be managed in custody, with reflections on HMP Downview facilitating insights into the views of a diverse, heterogeneous group of people in custody.

More widely, this article argues that debates on any aspect of Criminal Justice policy or practice are enriched by considering the analysed accounts of people in custody. These unique insights and experiences have to be at the core of future policy direction in relation to the management of transgender people in custody and the establishment of any future prison facilities specifically for transgender people in custody.

An overview of research on transgender people’s experiences of custody

It is evident that the evidence base relating to the experiences of transgender people within custody is relatively limited, and peer-reviewed research that does exist tends to be largely located in the US. Critically, there have been no published studies on the experiences of transgender people in custody in Scotland until now and the evidence base relating to the UK more widely is relatively limited. Research that has been published on transgender people in custody is dominated by issues surrounding health, policy analysis and the housing of people in custody based on gender, and the lack of understanding on transgender issues by prison staff. A recent literature review of research on transgender people in England and Wales, as Gorden et al indicate that:

‘...existing research (discussed in this literature review) indicating that transgender people in prison are significantly more likely to experience more problems than other prison populations.’¹

More specifically, this review highlights three areas of concern within the published research relating to transgender people in custody in England and Wales:

‘...this helped to identify three key areas that represent specific issues for transgender people in prison: placement in the prison establishment; victimisation and treatment; and healthcare provisions.’²

-
1. Gorden C, Hughes C and Astbury-Ward EM (2017) A Literature Review of Transgender People in Prison: An ‘invisible’ population in England and Wales. *Prison Service Journal*.(233): 11
 2. Ibid, p. 13

Specifically, in relation to health issues and transgender people in custody, a number of studies have critiqued health policies³, as well as UK approaches to preventing suicide in transgender (as well as lesbian, gay and bisexual) people in custody.⁴ A study analysing interview data on 315 transgender inmates in California prisons for men indicated that transgender inmates fare far worse on standard demographic and health measures than their non transgender counterparts in the US population, the California population, the US prison population and the California prison population.⁵ A qualitative analysis by Brown⁶ reviews over 100 letters voicing concerns during imprisonment received from transgender people in 24 US States. Results of these letters prove transgender healthcare issues top the list, with 55 per cent of respondents claiming it features as their main concern. Additionally, research has suggested that transgender people in custody are more likely to be the victims of transphobic attacks and sexual assault than the wider prison population, stating there would be a “clear risk of harm’ where a transgender person in custody ‘was not located in a prison appropriate to their acquired gender’.⁷ It is also evident in the cases of Joanne Latham, Jenny Swift and Jade Eatough, three transwomen who all committed suicide whilst placed in male prisons in England and Wales.⁸ There has also been controversy

...research has suggested that transgender people in custody are more likely to be the victims of transphobic attacks and sexual assault than the wider prison population.

about offences committed in prison by transgender prisoners, for example the case of Karen White.⁹

Prison staff training on transgender issues is a theme to emerge in a number of studies. For example, Forder’s¹⁰ research focuses on the trans-female population in English prisons. Comments appear regarding a lack of confidence in prison staff, namely, in using the appropriate pronoun. Forder also identifies the need for the education of prison staff to meet the needs of the transgender population. He states a genuine interest from UK officers to develop their understanding of issues relating to transgender people, not only in their professional capacity but in the wider context as he states ‘some prison staff have transgender children or relatives of their own’¹¹. This lack of understanding is also identified by Kendig and Cubitt et al.¹² in a consensus reached by 27 selected experts from a number of stakeholders at an international symposium.

Transphobia has received relatively little focus,¹³ with little consideration of the forms that this might take within prison contexts. A small number of studies have considered the challenges of the management of transgender people in custody as well as policies relating to transgender people in custody¹⁴. Simopoulos and Khin¹⁵ suggest

that the management of transgender people in custody relate to issues such as clothing, searching, names and issues all analysed in this paper.

3. Brown GR and McDuffie E (2009) Health Care Policies Addressing Transgender Inmates in Prison Systems in the United States. *Journal of Correctional Health Care* 15(4): 280-291.
4. Read M and McCrae N (2016) Preventing Suicide in Lesbian, Gay, Bisexual, and Transgender Prisoners: A Critique of U.K. Policy. *Journal of Forensic Nursing* 12(1): 13-18.
5. Sexton L, Jenness V and Sumner JM (2010) Where the Margins Meet: A Demographic Assessment of Transgender Inmates in Men’s Prisons. *Justice Quarterly* 27(6): 835-866.
6. Brown GR (2014) Qualitative Analysis of Transgender Inmates’ Correspondence: Implications for Departments of Correction. *Journal of Correctional Health Care* 20(4): 334-342.
7. Beard J (2018) Transgender prisoners. Reportno. Report Number1, Date. Place Published1: Institution. 3
8. Apter C (2018) *When will the prison service act upon the vulnerability of transgender people?* Available at: <https://www.mentalhealthtoday.co.uk/innovations/when-will-the-prison-service-act-upon-the-vulnerability-of-transgender-people>
9. <https://www.theguardian.com/uk-news/2018/oct/11/transgender-prisoner-who-sexually-assaulted-inmates-jailed-for-life> Accessed 15th August 2020
10. Forder P (2017) Conversations with transgender prisoners and the staff that care for them’ Released Inside. G4S Report
11. Ibid, 17
12. Kendig NE, Cubitt A, Moss A, et al. (2019) Developing Correctional Policy, Practice, and Clinical Care Considerations for Incarcerated Transgender Patients Through Collaborative Stakeholder Engagement. *Journal of Correctional Health Care*. 1078345819857113.
13. Erni JN (2013) LEGITIMATING TRANSPHOBIA. *Cultural Studies* 27(1): 136-159
14. Jamel J (2017) Transgender offenders within the prison estate: A comparative analysis of penal policy. *Sexualities Research*. Routledge, pp.167-181. Lamble S (2012) Rethinking gendered prison policies: impacts on transgender prisoners. *ECAN Bulletin*.(16): 7-12. Knight C and Wilson K (2016) Transgendered People in the Criminal Justice System. *Lesbian, Gay, Bisexual and Trans People (LGBT) and the Criminal Justice System*. London: Palgrave Macmillan UK, pp.147-178. Routh D, Abess G, Makin D, et al. (2017) Transgender Inmates in Prisons: A Review of Applicable Statutes and Policies. *International Journal of Offender Therapy and Comparative Criminology* 61(6): 645-666.
15. Simopoulos EF and Khin Khin E (2014) Fundamental Principles Inherent in the Comprehensive Care of Transgender Inmates. *Journal of the American Academy of Psychiatry and the Law Online* 42(1): 26-36.

TA small number of studies theoretically consider what transgender people in custody mean for theories of gender as they resonate within largely binary prison systems internationally.¹⁶ Cumulatively, considering the published studies on transgender people in custody indicate that there are a number of gaps in the literature that go further than the lack of research on this area in Scotland. In particular, gaps emerge that relate to qualitative research concerning transgender people in custody, which foreground the lived experiences of custody and reflect the management of transgender people in custody, something that this article seeks to address.

The transgender people in custody policy context in Scotland

In 2019 the Scottish Government opened a consultation relating to a Recognition Reform (Scotland) Bill, which if it came into law would reform the process by which transgender people gain legal recognition of their lived gender through a gender recognition certificate. In essence the Bill would make transitioning easier, which has caused much debate and polarised opinion in Scotland.¹⁷ Much of the debate about the Bill relates to single sex services and spaces, such as prisons.¹⁸ In relation to Scottish prison policy specifically, in 2014 the SPS introduced a policy relating to transgender people in custody and gender identity more widely; 'Gender Identity and Gender Reassignment Policy for those in our Custody'. The policy seeks to:

...ensure that individuals who identify as transgender people or who intend to

...individuals who identify as transgender people or who intend to undergo, are undergoing or have undergone gender reassignment receive respect and fairness at all times from the Scottish Prison Service.

*undergo, are undergoing or have undergone gender reassignment receive respect and fairness at all times from the Scottish Prison Service.*¹⁹

Critically, unlike similar policies (for example in England and Wales), the policies and guidance around suitable housing for transgender people in custody in Scotland do not require a Gender Recognition Certificate (GRC).²⁰ Since the introduction of the Gender Recognition Act 2004 the Scottish Prison Service has contended the requirement of a GRC:

*'Applying for a Gender Recognition Certificate is optional and is not required in order to have protection from gender reassignment discrimination'*²¹

In response to a Freedom of Information (FOI) request regarding a male to female transgender person, The Scottish Prison Service responded,

'As a convicted transgender woman, she would be treated the same as all women in the female estate' (SPS, 2016).

Meaning not only could the prisoner be placed in a women's prison, but would have access to the same facilities and services as other women, if the individualised risk assessment indicated that this was safe to do. This response is in accordance with Section 149 of the Equality Act 2010, The Prisons and Young Offenders Institutions (Scotland) Rules 2011 (1:6) which state, 'the Governor must seek to eliminate within the prison discrimination against people in custody on the grounds of gender reassignment'. The SPS policy has

16. Jenness V (2010) From Policy to Prisoners to People: A "Soft Mixed Methods" Approach to Studying Transgender Prisoners. *Journal of Contemporary Ethnography* 39(5): 517-553. Jenness V and Fenstermaker S (2014) Agnes Goes to Prison: Gender Authenticity, Transgender Inmates in Prisons for Men, and Pursuit of "The Real Deal". *Gender & Society* 28(1): 5-31. Pemberton S (2013) Enforcing Gender: The Constitution of Sex and Gender in Prison Regimes. *Signs: Journal of Women in Culture and Society* 39(1): 151-175. Sumner J and Sexton L (2016) Same Difference: The "Dilemma of Difference" and the Incarceration of Transgender Prisoners. *Law & Social Inquiry* 41(3): 616-642.
17. <https://www.theguardian.com/uk-news/2019/jun/20/scotland-to-run-new-consultations-before-updating-gender-law> <https://www.engender.org.uk/content/publications/Engender-response-to-the-Scottish-Government-consultation-on-the-Gender-Recognition-Reform-Scotland-Bill.pdf> <https://murrayblackburnmackenzie.org/gender-recognition-act-reform/>
18. Women and Girls Scotland (2019). Female Only Provision: A Women and Girls in Scotland Report. Scotland, Women and Girls Scotland.
19. SPS (2014) Gender Identity and Gender Reassignment Policy for those in our Custody. Edinburgh: SPS. 5
20. In the UK, a Gender Recognition Certificate (GRC) is legal proof of gender in accordance with the Gender Recognition Act 2004.
21. SPS (2014) see n.19

been subject to some critique, although this critique is not founded on empirical engagement with transgender people or women in custody (or more widely male people in custody or prison staff), something that this study foregrounds. It is within this policy and research context that this project is situated, a context within which, until now, no one has asked transgender people, men, women and staff living and working in custody²² about their views on these issues. More specifically this article asks the question, where do transgender people in custody want to be housed in custody?

Methods

At the time of ethical approval for this project there were 17 people in custody were identified as transgender in the Scottish prison estate (representing 0.2 per cent of the entire prison population). All 17 transgender people were given the project information sheet and 15 participants consented to take part in the study, however, two participants refused to take part on the morning that the interview was scheduled. Semi-structured interviews taking a life history approach²³ examining pre-prison lives, exploring in detail aspects of life in prison as a transgender person, as well as post-prison 'visions' were conducted with all 13 participants. All interviews were recorded and transcribed by an external agency. Transcripts were subsequently checked and anonymised, followed by an inductive thematic analysis²⁴ in Nvivo 12.

The sample

This project outlines the accounts of 13 participants, equating to a 76 per cent sample of the entire Scottish transgender person in custody population at the time of data collection. Of the 13,

eleven participants were transitioning from male to female and two from female to male. All participants were at various stage of their transition, while one participant had completed part of the surgical part of her transition. Five participants had begun transitioning prior to coming into custody, while eight had started the process within custody. The findings below illustrate the complexity of these transitions and identities in custody, a social context which has profound implications for performances of gender within it.²⁵

Ethics

While there is little visibility of the specific experiences of transgender people in custody in Scotland, many of the participants in this study had taken part in previous studies (on a range of topics). As one research participant mentioned:

...until now, no one
has asked
transgender people,
men, women and
staff living and
working in custody
about their views
on these issues.

'Because obviously, I've done stuff like this before [take part in research in prison], and never hear anything. So it's good to be able to have somebody say, look, we're going to give you this back so you can see' (Participant 2).

Consequently, each of the 13 participants were sent a draft of this paper and given a month to respond or ask questions (12 of whom were still in custody some months later, one participant was contacted at a home address given during the initial interview). Contact details of the researcher was provided and a commitment to meet and discuss any concerns in relation to any aspect of the paper was given to all participants. Of the 1 who took up the option to discuss the paper further, this resulted in amendments and improvements to the paper. Specifically, in relation to prison research, Brosens²⁶ suggests five levels of participation: informing, consulting, involving, collaborating and

22. While the views of men, women and staff living and working custody are not the focus of this paper, the views on gender, non-binary and transgender issues specifically within prison of a range of men, women and staff in custody are being analysed in a number of studies associated to the one reported on here.
23. Crewe B (2013) Writing and reading a prison: making use of prisoner life stories: Ben Crewe considers the value of prisoner life stories as part of an ethnographic approach. *Criminal Justice Matters* 91(1): 20-20.
24. Fereday J and Muir-Cochrane E (2006) Demonstrating Rigor Using Thematic Analysis: A Hybrid Approach of Inductive and Deductive Coding and Theme Development. *International Journal of Qualitative Methods* 5(1): 80-92.
25. Malloch MS (1999) Drug use, prison, and the social construction of femininity. *Women's Studies International Forum* 22(3): 349-358. Maycock M and Hunt K (2018) *New Perspectives on Prison Masculinities*. London: Palgrave. Moran D, Pallot J and Piacentini L (2009) Lipstick, Lace, and Longing: Constructions of Femininity inside a Russian Prison. *Environment and Planning D: Society and Space* 27(4): 700-720. Sabo DF, Kupers TA and London WJ (2001) *Prison masculinities* edited by Don Sabo, Terry A. Kupers, and Willie London. Philadelphia, PA: Temple University Press.
26. Brosens D (2018) Prisoners' participation and involvement in prison life: examining the possibilities and boundaries. *European Journal of Criminology*. DOI: 10.1177/1477370818773616. 1-20.

empowering. It is hoped that this study has involved transgender people in custody in a meaningful and sensitive way.

Findings — Reflections on HMP Downview

HMP Downview (a female closed category prison in England) opened a wing specifically to house transgender people in custody in March 2019. At the time of submission, there have been no studies published in relation to the specific wing for transgender people and no accounts published from those living or working there. Additionally, nothing about the transgender wing is mentioned in any inspection or other reports relating to HMP Downview.

The establishment of the specific wing for transgender people at HMP Downview was discussed with each of the 13 participants in this study, in order to frame a part of the interviews around the management of transgender people in custody. The transgender wing at HMP Downview, proved to split opinion amongst the participants, although the majority of participants viewed this negatively largely as a consequence of separating transgender people from the mainstream prisoner populations. The discussion about where transgender people feel they should be housed in prison as well as the possibility of specific transgender wings in prison goes to the core of transgender identities in custody. For some participants transgender identities were a specific, positive position, while other participants viewed transgender identities negatively, as they discussed wanting to be treated and seen as male or female (issues discussed in theoretical terms in Maycock forthcoming). Findings are clustered around positive and negative reflections on HMP Downview in order to provide wider insights into transgender identities and the management of transgender people in custody.

Positive views about HMP Downview

It is important to recognise that a number of participants viewed HMP Downview and the possibility of transgender specific wings in custody as potentially positive and something they would welcome in Scotland. In particular it was felt that as this would provide more support and a shared experience of transitioning in custody:

...majority of participants viewed this negatively largely as a consequence of separating transgender people from the mainstream prisoner populations.

Trans males and trans females? See that would be perfect for me. See if it was somebody like that...but see in here obviously sometimes like... It's understanding, I mean they're going through the same as me. (Participant four)

While this is a minority position within the interviews, this is an insightful quote as this points to the isolation and marginalisation that many of the participants in this study experienced as a consequence of being a transgender person in custody. Another participant viewed a specific wing for transgender people as desirable to support people transitioning before they could enter male or female wings fully transitioned:

...if it was a matter of until I had the operation being put in a wing, I'd rather have a little middle ground what would be filled with other transgender prisoners. That's a, sort of, middle point until I can carry on into the female wing. (participant nine)

Such specific wings could then be places of support while people were at various stages of their transition journey. A number of participants suggested more radical approaches, with non-binary wings being suggested by one participant, within the context of a discussion of the constraints of the binary prison system in Scotland:

I think there should be a separate wing within a prison, for people who want to identify as non-binary, but they can still have access to the mainstream. I think because they want to be accepted in the general mainstream population. (Participant two)

Although as the quote indicates, it was still deemed important that anyone who might want to be in any separate wing have access to mainstream wings if they wanted, although the extent to which people in custody might be able to choose where they were located in such a flexible way was unclear. The quote above suggests a kind of utopian vision, where people in custody are able to determine where they are located within the prison estate, and doesn't in anyway reference the individual risk assessments undertaken by the SPS (and other jurisdictions) that ultimately

determines the location of transgender and non-binary people in custody. Other elements of the wider research project within which this project is situated, points to a complex situation within which the acceptance and rejection of transgender people in custody by other people who live and work in prison is influenced by a wide range of factors. Finally, one participant suggested changes in future prison design, with the possibility of an intersex wing that would house a diversity of people:

Wherever you establish HMP Glasgow, establish having female wings and male wings, and think ahead in terms of the intersex wing now, because if you start planning Barlinnie or HMP Glasgow,²⁷ if it's starting to get built, you've lost the chance. (Participant eleven)

Although planning for HMP Glasgow is at an early stage, it seems unlikely that this new prison will include an intersex wing when it opens. Once more these views are positive and optimistic, resonating with other research that has explored aspects of hope within prison settings,²⁸ although this from a particular gendered perspective. The views in this section by a minority of the participants outlines a number of positive views on specific housing for transgender people in custody, with a number of potential solutions to the question of how best to house transgender people in custody suggested. The sentiments in the section below analyse more critical or negative responses to the prospect of a specific wings for transgender people in custody.

Negative Views about HMP Downview

The majority of the participants in this study reflected quite negatively upon the transgender wing at HMP Downview often stating that they wouldn't want to be located in such a wing. Often these negative reflecting related to see this as a type of unwelcome segregation:

I think it's like segregation. It's like saying that they are different when we're all trying to say we're all the same. I think a separate wing would be highly inappropriate because it is segregation again which we outlawed years ago. (Participant seven)

This illuminates the importance of location within the prison system as having the potential to both validate and undermine the lived gender of transgender people in custody. This is something that participants in

this study reflected on further, even for those participants who were located in wings of their lived gender. This took the form of participants reflecting on being located in single cells (something quite rare within the Scottish prison estate), being searched more infrequently than other people of their gender (due to staff finding this uncomfortable) and sometimes being managed differently to people of the same gender through being in protection and segregation units quite frequently:

I was in a protection hall, I got kept in protection for my own safety, because of it [being transgender]. In my opinion, it was a way to go, right, get rid of you. I'm a pain because they're having to do things out of the ordinary, if you know what I mean. (Participant one)

When asked to further elaborate in relation to these negative responses, it was possible to get further insights into the extent to which there exists a transgender 'community' or shared identity in custody. There was a recurring sense that transgender people might not necessarily get on if they were located in a wing with other transgender people, as they might only have their transgender status in common:

I don't like that idea [of a transgender wing] because...the problem is like. For example, say you've got one autistic person. The last thing you want to do is put them...loads of autistic people in the same room because they're not going to get along. Just because they're autistic doesn't mean they like each other and it's in the same sense as putting. There were two transgender people when I was down in [prison in England] and one of them, [name of prisoner], none of us could stand, because she was one of those ones where she shoved it in your face. (Participant 13)

This quote subverts the assumption that transgender people in custody are a homogenous group, who might naturally all get along in custody. An alternative reading of the above quote might undermine assumptions about the specialisation of provision and training in prison settings, that such approaches are doomed to fail.²⁹ A number of participants discussed social transitioning as a transgender person in custody, something that has been considered in community contexts,³⁰ but not in great deal within prison settings. Within this context, a number of participants suggested that learning to be socially male or female in custody would be particularly

27. HMP Glasgow will be one of the largest prisons in Europe and is due to open in 2025.

28. Liebling, A., et al. (2019). "Are Hope and Possibility Achievable in Prison?" *The Howard Journal of Crime and Justice* 58(1): 104-126.

29. Wilson, D. and Brookes, M. (forthcoming), "A failed success: the Barlinnie Special Unit", *International Journal of Prisoner Health*.

30. Sherer I (2016) Social Transition: Supporting Our Youngest Transgender Children. *Pediatrics* 137(3): e20154358.

challenging in a wing specifically for transgender people. A number of participants questioned how they would learn to behave in ways considered normal for people in their lived gender, if they were only able to interact with other transgender people:

Yeah, that's not healthy [the transgender wing at HMP Downview]. That's not going to help someone socially transition at all. If anything, it's going to hinder it. From the sort of social transitioning and sort of finding out who I am, it's been very difficult. (Participant three)

This section has illustrated a diversity of views on the management of transgender people in custody and highlights the significance of institutional decisions that have the potential to both affirm as well as subvert the lived gender of transgender people in custody. The varied responses to the prospect of transgender specific housing within prison settings outlined in this and the previous section, highlight the diversity of the views of transgender people interviewed as part of this study, in a wider context within which this specific group of custody have often been seen as a homogenous group.

Conclusion

The accounts of the 13 transgender people in custody in this paper highlight a number of issues that have not been considered within the Scottish (or wider British) context, until now. The insights outlined in this paper give a voice to a much discussed, but consistently marginalised, group of people in custody. It is important to note that this study is part of a wider project analysing performances of gender within the SPS estate. Foregrounding the narratives of transgender people in custody illuminates aspects of prison life that are critical in shaping evolutions to the 2014 SPS Gender Identity Policy. This project is influencing the future direction of this policy in Scotland, through analysing the views of transgender people, men, women and staff who all have a stake in the successful management of this group of people in custody.

More widely this paper provides unique insights into performances of gender within the contemporary Scottish prison system, that resonates with wider debates in Scotland around sex and gender,³¹ and the extent to which these debates potentially threaten women only spaces.³² Comments in this paper raise questions about the extent to which transgender identities are specific and distinct and therefore require specialist provision within prison settings (such as HMP Downview). Alternatively, are gender identities chosen which will result in shared accommodation (the current situation in Scotland), and if they are chosen at what stage does a transgender person in custody move to the accommodation of their lived

gender (after individual risk assessments have been completed). Other research in the wider project suggests that transgender people in custody have a diversity of views of these issues, with some stating that they felt that some transgender people posed a risk and should never live in halls of their lived gender, others saying by default transgender people should live in halls of their lived gender, and a third group that suggested people should move depending on where they are with their transition. One participant in particular was able to move from the male to the female estate, but chose not to as she felt that she needed more time on hormone treatment to be accepted and feel comfortable in the female estate. The diversity of views in this paper suggests that the polarised debates about transgender rights does not always accurately reflect the lived experiences and perspectives of transgender people themselves.

Something that emerges as a particularly unique finding in this study is the desire of transgender people in custody to be treated in the same manner of people of the same gender as them. This resulted in a number of participants wanting to be searched more, to share a cell and shower at the same time as other people in custody, something that is in contrast to what would be seen as undesirable to their fellow people in custody. This search for standardised treatment in relation to gender within custody is something that both the transgender men and women in this study strived for.

This study has a number of limitations. The experiences of the male transgender people in custody interviewed in this study are in many ways contrasting to the female transgender people in custody, in particular in relation to their management within the SPS estate. Additionally, this paper privileges the views of transgender people in custody, and does not report on other parts of the study that consider the views of women, men and staff about these issues. This is certainly an area for future analysis as the transgender prison population changes with an increasing proportion of transgender men coming into custody.

The contrasting of views concerning HMP Downview and the potential for transgender specific prison wings expressed in this paper illustrates the significant diversity amongst the transgender people in custody interviewed as part of this study, a group who are often portrayed in homogenous and narrow ways. It is inconceivable that the lived experience of other vulnerable groups of people in custody (such as women, young people and some men) would be missing from debates around their imprisonment, which is what this paper (and its associated studies) seeks to begin to address. It is hoped that further research foregrounds these often neglected narratives, in order to shape improvements in the policy and management of transgender people in custody.

31. <https://www.scotsman.com/news/opinion/columnists/opinion-we-need-more-clarity-gender-rights-debate-scottish-government-1398508>

32. <https://www.versobooks.com/blogs/4090-i-m-not-transphobic-but-a-feminist-case-against-the-feminist-case-against-trans-inclusivity>